

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



September 30, 2002

Regulation Package #0801-17

CDSS MANUAL LETTER NO. CCL-02-13

TO: HOLDERS OF THE COMMUNITY CARE LICENSING MANUAL, TITLE 22, DIVISION 6,
CHAPTER 8, RESIDENTIAL CARE FACILITIES FOR THE ELDERLY

Regulation Package #0801-17**Effective 9/8/02****Sections 87101, 87561, and 87575.2**

This manual letter has been posted on the Office of Regulations Development website at http://www.dss.cahwnet.gov/ord/Residentia_635.htm.

Pursuant to Health and Safety Code Section 1797.196, these regulations pertain to the use of Automated External Defibrillators (AEDs) in adult and elderly facilities. Presently there is no prohibition against AEDs in community care facilities. Anyone wishing to purchase an AED may do so, following federal regulations which AED vendors must provide to purchasers. The purpose of having Community Care Licensing regulations in place for adult and elderly facilities is to clarify for licensees that AEDs in facilities are permitted, and what the requirements are. The regulations will also provide guidelines to licensees for district office oversight of AEDs in facilities. It is preferable to proactively address this new technology than to have licensees trying to seek information from district offices with no regulations to guide them.

AEDs were designed to enable trained lay persons to administer an electric shock to the heart of anyone in cardiac arrest wherever an AED was located. The AED voice-prompts the user through the process of preparing to apply, and applying, electric shock. Almost anyone can quickly learn to use an AED. Cardiac arrest due to abnormal heart rhythm causes death for many thousands of Americans every year. Electric shock restores normal rhythm to the heart. If applied within a maximum of ten minutes from the beginning of the cardiac arrest, electric shock saves lives. Before the introduction of portable AEDs, paramedics and physicians were rarely able to administer electric shock within ten minutes; therefore, most victims of cardiac arrest died. Today, with the placement of AEDs in locations where groups of people gather (sports arenas, shopping malls, airports, etc.), it is possible for rescuers to apply electric shock with an AED in a shorter period of time, thus saving the lives of many more cardiac arrest victims.

These regulations were adopted on September 8, 2002 and were considered at the Department's public hearing held on April 17, 2002.

FILING INSTRUCTIONS

Revisions to all manuals are shown in graphic screen. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Community Care Licensing changes was Manual Letter No. CCL-02-12. The latest prior manual letter containing Residential Care Facilities for the Elderly regulation changes was Manual Letter No. CCL-02-09.

Page(s)

3 and 4
6.1 and 7
15 and 15.1
76 and 77
97 through 98

Replace(s)

Pages 3 and 4
Pages 6.1 and 7
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Attachments

JTP

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87101	DEFINITIONS (Continued)	87101
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- (6) Ambulatory Person. "Ambulatory Person" means a person who is capable of demonstrating the mental competence and physical ability to leave a building without assistance of any other person or without the use of any mechanical aid in case of an emergency.
- (7) Automated External Defibrillator. "Automated External Defibrillator" (AED) means a light-weight, portable device used to administer an electric shock through the chest wall to the heart. Built-in computers assess the patient's heart rhythm, determine whether defibrillation (electrical shock) is needed and then administer the shock. Audible and/or visual prompts guide the user through the process.
- (8) Applicant. "Applicant" means any individual, firm, partnership, association, corporation, county, city, public agency or other government entity that has made application for a residential care facility for the elderly license, administrator certificate, or special permit.
- (9) Appropriately Skilled Professional: Means an individual that has training and is licensed to perform the necessary medical procedures prescribed by a physician. This includes but is not limited to the following: Registered Nurse (RN), Licensed Vocational Nurse (LVN), Physical Therapist (PT), Occupational Therapist (OT) and Respiratory Therapist (RT). These professionals may include, but are not limited to, those persons employed by a home health agency, the resident, or facilities and who are currently licensed in California.'
- (b) (1) Basic Rate. "Basic Rate" means the SSI/SSP established rate, which does not include that amount allocated for the recipient's personal and incidental needs.

87101 DEFINITIONS (Continued)**87101**

- (2) Basic Services. "Basic Services" means those services required to be provided by the facility in order to obtain and maintain a license and include, in such combinations as may meet the needs of the residents and be applicable to the type of facility to be operated, the following: safe and healthful living accommodations; personal assistance and care; observation and supervision; planned activities; food service; and arrangements for obtaining incidental medical and dental care.
- (c) (1) Capacity. "Capacity" means that maximum number of persons authorized to be provided services at any one time in any licensed facility.
- (2) Care and Supervision. "Care and Supervision" means those activities which if provided shall require the facility to be licensed. It involves assistance as needed with activities of daily living and the assumption of varying degrees of responsibility for the safety and well-being of residents. "Care and Supervision" shall include, but not be limited to, any one or more of the following activities provided by a person or facility to meet the needs of the residents:
- (A) Assistance in dressing, grooming, bathing and other personal hygiene;
 - (B) Assistance with taking medication; as specified in Section 87575;
 - (C) Central storing and distribution of medications, as specified in Section 87575;
 - (D) Arrangement of and assistance with medical and dental care. This may include transportation, as specified in Section 87575;
 - (E) Maintenance of house rules for the protection of residents;
 - (F) Supervision of resident schedules and activities;
 - (G) Maintenance and supervision of resident monies or property;
 - (H) Monitoring food intake or special diets.
- (3) Certificate holder. "Certificate holder" means a person who has a current administrator's certificate issued by the Department regardless of whether the person is employed as an administrator in a residential care facility for the elderly.
- (4) Certified administrator. "Certified administrator" means an administrator who has been issued a residential care facility for the elderly administrator certificate by the Department and whose certificate is current.
- (5) Classroom hour. "Classroom Hour" means sixty (60) minutes of classroom instruction with or without a break. It is recommended that no more than twenty (20) minutes of break time be included in every four (4) hours of instruction. No credit is given for meal breaks.

87101 DEFINITIONS (Continued)**87101**

- (B) A facility which is "providing care and supervision" as defined in Section 87101c.(2) includes, but is not limited to, one in which individual has been placed by a placement agency or family members.
- (C) A facility which is "held out as or represented as providing care and supervision" includes, but is not limited to:
 - (1) A facility whose license has been revoked or denied, but the individual continues to provide care for the same or different clients with similar needs.
 - (2) A facility where change of ownership has occurred and the same clients are retained.
 - (3) A licensed facility that moves to a new location.
 - (4) A facility which advertises as providing care and supervision.
- (D) A facility which "accepts or retains residents who demonstrate the need for care and supervision" includes, but is not limited to:
 - (1) A facility with residents requiring care and supervision, even though the facility is providing board and room only, or board only, or room only.
 - (2) A facility where it is apparent that care and supervision are being provided by virtue of the client's needs being met.
- (v) (1) Vendor. "Vendor" means a Department-approved institution, association, individual(s), or other entity that assumes full responsibility or control over a Department-approved Initial Certification Training Program and/or a Continuing Education Training Program.
- (2) Vendor applicant. "Vendor applicant" means any institution, association, individual(s), or other entity that submits a request for approval of an Initial Certification Training Program and/or a Continuing Education Training Program.
- (3) Voluntary. "Voluntary" means resulting from free will.
- (w) (1) Waiver. "Waiver" means a variance to a specific regulation based on a facility-wide need or circumstance which is not typically tied to a specific resident or staff person. Requests for waivers are made to the licensing agency, in advance, by an applicant or licensee.

87101 DEFINITIONS (Continued)**87101**

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

NOTE: Authority cited: Sections 1569.23(d), 1569.30, 1569.616(j), and 1569.698(c), Health and Safety Code. Reference: 42 CFR 418.3; Sections 1569.1, 1569.2, 1569.5, 1569.10, 1569.145, 1569.15, 1569.153, 1569.157, 1569.158, 1569.17, 1569.19, 1569.191(e), 1569.193(a) and (d), 1569.20, 1569.21, 1569.23, 1569.30, 1569.31, 1569.312, 1569.38, 1569.44, 1569.47, 1569.54, 1569.616, 1569.699(a), 1569.73, 1569.74, and 1569.82, 1797.196, and 1771(c)(8), Health and Safety Code; Section 15610.13, Welfare and Institutions Code; and Sections 1800, 4615, 4650, and 4753, Probate Code.

87102 DEFINITIONS - FORMS**87102**

The following forms, which are incorporated by reference, apply to the regulations in Title 22, Division 6, Chapter 8 (Residential Care Facilities for the Elderly).

- (a) LIC 9139 (2/01) - Renewal of Continuing Education Course Approval, Administrator Certification Program.
- (b) LIC 9140 (6/01) - Request for Course Approval, Administrator Certification Program.
- (c) LIC 9141 (5/01) - Vendor Application/Renewal, Administrator Certification Program.
- (d) PUB 325 (3/99) – Your Right To Make Decisions About Medical Treatment.
- (e) Core of Knowledge Guidelines (6/01/01) - RCFE 40-Hour Initial Certification.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1530 and 1569.616(i), Health and Safety Code; and Section 15376, Government Code.

Article 6. Continuing Requirements**87560 GOVERNING BODY****87560**

- (a) The licensee, whether an individual or other entity, shall exercise general supervision over the affairs of the licensed facility and establish policies concerning its operation in conformance with these regulations and the welfare of the individuals it serves.
- (b) If the licensee is a corporation or an association, the governing body shall be active, and functioning in order to assure accountability.
- (c) Any change in the chief corporate officer of an organization, corporation or association shall be reported to the Department or licensing agency in writing within fifteen (15) working days following such change. Such notification shall include the name, address and the fingerprint card of the new chief executive officer as required by Section 87219.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.15, 1569.16, 1569.17, 1569.30, 1569.31 and 1569.312, Health and Safety Code.

87561 REPORTING REQUIREMENTS**87561**

- (a) Each licensee shall furnish to the licensing agency such reports as the Department may require, including, but not limited to, the following:
 - (1) A written report shall be submitted to the licensing agency and to the person responsible for the resident within seven days of the occurrence of any of the events specified in (A) through (D) below. This report shall include the resident's name, age, sex and date of admission; date and nature of event; attending physician's name, findings, and treatment, if any; and disposition of the case.
 - (A) Death of any resident from any cause regardless of where the death occurred, including but not limited to a day program, a hospital, en route to or from a hospital, or visiting away from the facility.
 - (B) Any serious injury as determined by the attending physician and occurring while the resident is under facility supervision.
 - (C) The use of an Automated External Defibrillator.
 - (D) Any incident which threatens the welfare, safety or health of any resident, such as physical or psychological abuse of a resident by staff or other residents, or unexplained absence of any resident.

87561 REPORTING REQUIREMENTS (Continued)**87561**

- (2) Occurrences, such as epidemic outbreaks, poisonings, catastrophes or major accidents which threaten the welfare, safety or health of residents, personnel or visitors, shall be reported within 24 hours either by telephone or telegraph to the licensing agency and to the local health officer when appropriate.
 - (3) Fires or explosions which occur in or on the premises shall be reported immediately to the local fire authority; in areas not having organized fire services, within 24 hours to the State Fire Marshal; and no later than the next working day to the licensing agency.
- (b) The licensee shall notify the Department, in writing, within thirty (30) days of the hiring of a new administrator. The notification shall include the following:
- (1) Name and residence and mailing addresses of the new administrator.
 - (2) Date he/she assumed his/her position.
 - (3) Description of his/her background and qualifications, including documentation of required education and administrator certification.
- (A) A photocopy of the documentation is acceptable.

NOTE: Authority cited: Section 1569.30 and 1569.616(j), Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.30, 1569.31, 1569.312, 1569.616, and 1797.196, Health and Safety Code.

87562 FINANCES**87562**

The licensee shall have a financial plan which conforms to the requirements of Section 87218, and which assures sufficient resources to meet operating costs for care of residents; shall maintain adequate financial records; and shall submit such financial reports as may be required upon the written request of the Department of licensing agency. Such request shall explain the need for disclosure. The Department or licensing agency reserves the right to reject any financial report and to request additional information or examination including interim financial statements.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, and 1569.15, Health and Safety Code; and Section 11006.9, Welfare and Institutions Code.

87575.1 ADVANCE HEALTH CARE DIRECTIVES, REQUESTS TO FOREGO 87575.1
RESUSCITATIVE MEASURES, AND DO-NOT RESUSCITATE
FORMS (Continued)

HANDBOOK CONTINUES

- (6) Facility staff are prohibited, on behalf of any resident, from signing any directive document as a witness or from being the legally recognized surrogate decision maker.
- (7) The facility shall provide the resident's physician with a copy of the resident's request to forego resuscitative measures form.
- "(c) Any action by a facility that has established policies pursuant to subdivision (a), to honor a resident's request to forego resuscitative measures as provided for in subdivision (a) may only be taken by a licensed health care provider who is employed by the facility and on the premises at the time of the life threatening emergency."

HANDBOOK ENDS HERE

- (c) After following the procedure in Section 87575.1(b)(1), (2), or (3), facility staff shall notify the resident's hospice agency and health care surrogate decision maker, if applicable.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.74, and 1569.156, Health and Safety Code; and Section 4753, Probate Code.

87575.2 AUTOMATED EXTERNAL DEFIBRILLATORS (AEDS) 87575.2

- (a) A licensee is permitted to maintain and operate an AED at the facility if all of the following requirements are met:
 - (1) The licensee shall notify the licensing agency in writing that an AED is in the facility and will be used in accordance with all applicable federal and other state requirements.
 - (2) The AED shall be used in accordance with all applicable federal and other state requirements.

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87575.2 AUTOMATED EXTERNAL DEFIBRILLATORS (AEDS)**87575.2**

(Continued)

- (3) The licensee shall maintain at the facility the following:
- (A) A copy of the required physician's prescription for the AED.
 - (B) A training manual from an American Heart Association- or American Red Cross-recognized AED training class.
 - (C) A log of checks of operation of the AED containing the dates checked and the name of person checking.
 - (D) A copy of a valid AED operator's certificate for any employee(s) authorized by the licensee to operate the AED. The certificate shall indicate that the AED training course completed complies with the standards of the American Heart Association or the American Red Cross. If it does not, then other evidence indicating that the AED training course completed complies with the standards of the American Heart Association or the American Red Cross shall be available at the facility.
 - (E) A log of quarterly proficiency demonstrations for each holder of an AED operator's certificate who is authorized by the licensee to operate the AED. The log shall contain the dates of the demonstrations and the manner of demonstration.
- (4) A supply kit shall be maintained at the facility and be readily available for use with the AED. The kit shall contain at least the following:
- (A) A back-up battery set.
 - (B) An extra set of pads.
 - (C) A safety razor for shaving chest hair when necessary to apply the pads.
 - (D) A cardiovascular pulmonary resuscitation barrier (a face shield or mask) for protection from transmission of infectious disease.
 - (E) Two pairs of unused medical examination gloves (latex or non-latex).
- (5) Use of an AED shall be reported as specified in Section 87561.
- (6) Requests to Forego Resuscitative Measures, Advance Directives and Do-Not-Resuscitate Orders shall be observed as specified in Section 87575.1.

NOTE: Authority Cited: Section 1569.30, Health and Safety Code. Reference: Sections 1250, 1569.1, 1569.2, 1569.30, 1569.312, 1569.73, and 1797.196 Health and Safety Code.

87576 FOOD SERVICE**87576**

- (a) The total daily diet shall be of the quality and in the quantity necessary to meet the needs of the residents and shall meet the Recommended Dietary Allowances of the Food and Nutrition Board of the National Research Council. All food shall be selected, stored, prepared and served in a safe and healthful manner.
- (b) The following food service requirements shall apply:
 - (1) Where all food is provided by the facility arrangements shall be made so that each resident has available at least three meals per day. Exceptions may be allowed on weekends and holidays providing the total daily food needs are met. Not more than fifteen (15) hours shall elapse between the third and first meal.
 - (2) Where meal service within a facility is elective, arrangements shall be made to assure availability of an adequate daily food intake for all residents who, in their admission agreement, elected meal service. If a resident's condition changes so that he is no longer able to cook or purchase his own meals, the admission agreement shall be modified and the resident provided full meal service.
 - (3) Between-meal nourishment or snacks shall be made available for all residents unless limited by dietary restrictions prescribed by a physician.
 - (4) Meals on the premises shall be served in a designated dining area suitable for the purpose and residents encouraged to have meals with other residents. Tray service shall be provided in case of temporary need.
 - (5) Meals shall consist of an appropriate variety of foods and shall be planned with consideration for cultural and religious background and food habits of residents.
 - (6) In facilities for sixteen (16) persons or more, menus shall be written at least one week in advance and copies of the menus as served shall be dated and kept on file for at least 30 days. Facilities licensed for less than sixteen (16) residents shall maintain a sample menu in their file. Menus shall be made available for review by the residents or their designated representatives and the licensing agency upon request.
 - (7) Modified diets prescribed by a resident's physician as a medical necessity shall be provided.